

## **REMARKS**

### **I. Introduction**

Claims 1-22 are pending in the present application. In view of the foregoing remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Rejection of Claims 1-22 Under 35 USC §102(b)**

Claims 1-22 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,015,389 ("Brown"). Applicants respectfully submit that Brown does not anticipate the present claims for at least the following reasons.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

Independent claim 1 relates to a system for performing electrical impedance tomography. Independent claim 1 recites that the system includes: a first set of electrodes positioned in a first plane; a second set of electrodes positioned in a second plane, the second plane being different from the first plane; and a third set of electrodes positioned in a third plane between the first and second planes, wherein the third set of electrodes is rotatable around an axis intersecting the third plane.

It is respectfully submitted that Brown does not anticipate independent claim 1 for at least the reason that Brown fails to disclose, or even suggest, all of the claimed features of independent claim 1. For instance, it is respectfully submitted that Brown fails to disclose, or even suggest, a first set of electrodes positioned in a first plane and a second set of electrodes positioned in a second plane, the second plane being different from the first plane, and a third set of electrodes positioned in a third plane between the first and second planes, wherein the third set of electrodes is rotatable around an axis intersecting the third plane as recited in claim 1. The present application states at page 7, lines 10-17, of the Specification that its arrangement "provides a system and method for generating a three-dimensional electrical impedance tomography image, whereby a single set of electrodes, e.g., the third set of electrodes 14c, is moveable between the first and second current injecting planes 14a, 14b .

... [t]hus, the system of the present invention decreases the number of electrodes that are required to be employed in the space between the first and second current injecting planes 14a, 14b, thereby improving the accuracy of the measurements taken and the resolution of the three-dimensional image generated therefrom.”

Brown relates to a system for monitoring respiratory conditions by impedance pneumography. *See* Abstract. Brown discloses an arrangement in which an electrical signal is applied to a human subject by way of a first pair of spaced electrodes applied to the trunk of the body wherein the electrical signal is monitored at different points by way of a second pair of spaced electrodes. *Id.* The electrodes are arranged for the maximization of fractional impedance change during respiration. Column 4, lines 2-4. Specifically, Brown discloses “an isolated drive electrode at the left axilla, whilst the other drive electrode and the two receive electrodes were placed in close proximity to one another on the right side of the body, all three in approximately the same transverse plane at about the level of the 6<sup>th</sup> or 7<sup>th</sup> rib.” Column 4, lines 4-10, emphasis added. Figure 1 clearly illustrates this arrangement. There is no disclosure or suggestion whatsoever in Brown of a third set of electrodes, nor that the third set of electrodes is positioned between sets of electrodes positioned in first and second planes that are different from each other or that the third set of electrodes is rotatable around an axis intersecting the third plane. To the contrary, Brown discloses three electrodes that are “in approximately the same transverse plane” and a fourth electrode opposite those electrodes. Column 4, lines 4-10 and Figure 1. The Office Action broadly asserts that “Brown discloses a system for performing electrical impedance tomography comprising multiple sets of electrodes in different planes ....” Office Action, page 2. However, the Office Action fails to point out that Brown discloses the specific arrangement set forth in independent claim 1. Indeed, Brown does not disclose such an arrangement. Accordingly, Brown does not disclose, or even suggest, all of the features recited in independent claim 1.

As for claims 2-22, which ultimately depend from and include all of the limitations of independent claim 1, it is respectfully submitted that Brown does not anticipate these dependent claims for at least the same reasons given above in support of the patentability of independent claim 1.

III. Conclusion

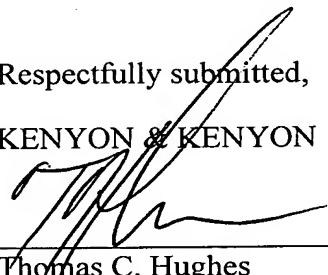
It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Dated: *August 18, 2006*

Respectfully submitted,

KENYON & KENYON

By:

  
Thomas C. Hughes  
Reg. No. 42,674

One Broadway  
New York, New York 10004  
(212) 425-7200